

REMARKS

In response to the Advisory Action (Paper No. 20081009) mailed on 14 October 2008, Applicant respectfully requests re-examination, reconsideration, and entry of the following remarks.

1. Regarding the evidence submitted by the Applicant in the response filed on 22 September 2008, in the Advisory Action (Paper No. 20081009), the Examiner stated:

“The Examiner notes that such unpublished evidence must be submitted in the form of a 37 CFR 1.132 affidavit or declaration in order to be considered.”

Applicant respectfully submits a Declaration under 37 CFR 1.132 in compliance with the Examiner’s request.

The Examiner’s attention is invited to note that, in the Declaration under 37 CFR 1.132, the inventor’s name “Young-Taek Sul” is phonetically equivalent with “Young-Taeg Sul”, and that different editors publishing different ones of the Declarant’s papers, used either phonetically equivalent spellings.

In view of the Declaration under 37 CFR 1.132, this issue is moot.

2. Regarding Applicant’s arguments submitted in the response filed on 22 September 2008 regarding the difference between Applicant’s arcuate-sectional outline compared with

Cuilleron's triangular cross-sectional outline, in the Advisory Action (Paper No. 20081009), the

Examiner stated:

“On pages 5 and 6 of the response, this examiner requests clarification of applicant's argument regarding “Guilleron's [*sic*, “Cuilleron's”] triangular cross-sectional outline.” Is applicant arguing that a transverse cross-section of the Figure 5 implant 2 of Guilleron [*sic*, “Cuilleron”] is triangular? If so, on what information is that triangular cross-section argument based? Doesn't the Figure 1 and 2 embodiment clearly have a circular/arcuate cross-section?”

Respectfully, the “triangular cross-sectional outline” in Applicant's response filed on 22 September 2008 refers to the cross-sectional outline of Cuilleron '512's micro-thread 2c formed on thread 2b of implant 2 as illustrated in Cuilleron '512's Figures 5-6.

The evidence already present in the administrative record of this prosecution history conclusively establishes that Cuilleron '512 explicitly mentions that the micro-threads are triangular. See the EPO automated translation of Cuilleron '512 earlier introduced into the administrative record by the Examiner:

“According to the invention, to multiply surfaces in contact of the cotyle (1) in his housing, one envisages to carry out on threaded surface a multitude of projections and creux thus constituting mini additional surfaces to develop surfaces of ancrage.

According to a preferred realization though nonrestrictive, these projections and hollows are carried out with a suitable cutting tool has surface activates simple or multiple, to constitute, on the only one way or by successive divings of the minis or **micro threadings with triangular profile** or other sections.”

Based on the above cited passages of Cuilleron '512's specification, the administrative record shows

that the cross-sectional outline Cuilleron '512's micro-threads 2c is triangular. There is no evidence to the contrary in the administrative record.

In addition, as mentioned in MPEP §2125,

“Proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale. When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value.”

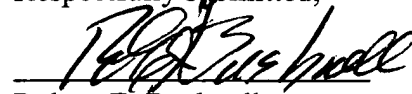
Because nothing in Cuilleron '512 mentions that Cuilleron '512's Figures 1 and 2 are to scale, Cuilleron '512's Figures 1 and 2 can not be relied upon to show that the micro-threads have a circular/arcuate cross-section.

In summary, the “triangular cross-sectional outline” in Applicant’s response filed on 22 September 2008 refers to the cross-sectional outline of Cuilleron '512's micro-thread 2c formed on thread 2b of implant 2 as illustrated in Cuilleron '512's Figures 5-6, and based on Cuilleron '512's specification, the micro-threads have a triangular cross-sectional outline.

A fee of \$245.00 (Small Entity) is incurred for filing a Petition for Two-month Extension of Time. Applicant's check drawn to the order of the Commissioner accompanies this Response. Should there be a deficiency in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the

amount of such fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert E. Bushnell", written over a horizontal line.

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